

House Bill 23 (AS PASSED HOUSE AND SENATE)

By: Representatives Ramsey of the 72<sup>nd</sup>, Rice of the 51<sup>st</sup>, Lindsey of the 54<sup>th</sup>, Williams of the 178<sup>th</sup>, Levitas of the 82<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and  
2 traffic, so as to change certain provisions relating to suspension or revocation of the licenses  
3 of habitually negligent or dangerous drivers and the point system; to change certain  
4 provisions relating to drivers' exercise of due care; to prohibit use of wireless  
5 telecommunications devices by persons under 18 years of age with an instruction permit or  
6 Class D license while operating a motor vehicle; to provide penalties for violations; to  
7 provide for related matters; to provide for an effective date and applicability; to repeal  
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
12 amended by revising subparagraph (c)(1)(A) of Code Section 40-5-57, relating to suspension  
13 or revocation of the licenses of habitually negligent or dangerous drivers and the point  
14 system, as follows:

15 "(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be  
16 assessed for each offense shall be as provided in the following schedule:

17	Aggressive driving .....	6 points
18	Reckless driving .....	4 points
19	Unlawful passing of a school bus .....	6 points
20	Improper passing on a hill or a curve .....	4 points
21	Exceeding the speed limit by more than 14 miles per hour but	
22	less than 19 miles per hour .....	2 points
23	Exceeding the speed limit by 19 miles per hour or more but	
24	less than 24 miles per hour .....	3 points
25	Exceeding the speed limit by 24 miles per hour or more but	
26	less than 34 miles per hour .....	4 points

27 Exceeding the speed limit by 34 miles per hour or more . . . . . 6 points  
 28 Disobedience of any traffic-control device or traffic officer . . . . . 3 points  
 29 Too fast for conditions . . . . . 0 points  
 30 Possessing an open container of an alcoholic beverage while driving . . . . 2 points  
 31 Failure to adequately secure a load, except fresh farm produce,  
 32 resulting in loss of such load onto the roadway which results in  
 33 an accident . . . . . 2 points  
 34 Violation of child safety restraint requirements, first offense . . . . . 1 point  
 35 Violation of child safety restraint requirements, second or  
 36 subsequent offense . . . . . 2 points  
 37 Violation of usage of wireless telecommunications device requirements . . 1 point  
 38 All other moving traffic violations which are not speed limit  
 39 violations . . . . . 3 points"

**SECTION 2.**

41 Said title is further amended by revising Code Section 40-6-241, relating to drivers' exercise  
 42 of due care and proper use of radios and mobile telephones, as follows:

43 "40-6-241.

44 A driver shall exercise due care in operating a motor vehicle on the highways of this state  
 45 and shall not engage in any actions which shall distract such driver from the safe operation  
 46 of such vehicle, provided that, except as prohibited by Code Section 40-6-241.1, the proper  
 47 use of a radio, citizens band radio, or mobile telephone, or amateur or ham radio shall not  
 48 be a violation of this Code section."

**SECTION 3.**

50 Said title is further amended by inserting a new Code section to read as follows:

51 "40-6-241.1.

52 (a) As used in the Code section, the term:

53 (1) 'Engage in a wireless communication' means talking, writing, sending, or reading a  
 54 text-based communication, or listening on a wireless telecommunications device.

55 (2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging  
 56 device, a personal digital assistant, a stand alone computer, or any other substantially  
 57 similar wireless device that is used to initiate or receive a wireless communication with  
 58 another person. It does not include citizens band radios, citizens band radio hybrids,  
 59 commercial two-way radio communication devices, subscription-based emergency  
 60 communications, in-vehicle security, navigation, and remote diagnostics systems or  
 61 amateur or ham radio devices.

62 (b) Except in a driver emergency and as provided in subsection (c) of this Code section,  
 63 no person who has an instruction permit or a Class D license and is under 18 years of age  
 64 shall operate a motor vehicle on any public road or highway of this state while engaging  
 65 in a wireless communication using a wireless telecommunications device.

66 (c) The provisions of this Code section shall not apply to a person who has an instruction  
 67 permit or a Class D license and is under 18 years of age who engages in a wireless  
 68 communication using a wireless telecommunications device to do any of the following:

69 (1) Report a traffic accident, medical emergency, or serious road hazard;

70 (2) Report a situation in which the person believes his or her personal safety is in  
 71 jeopardy;

72 (3) Report or avert the perpetration or potential perpetration of a criminal act against the  
 73 driver or another person; or

74 (4) Engage in a wireless communication while the motor vehicle is lawfully parked.

75 (d)(1) Any conviction for a violation of the provisions of this Code section shall be  
 76 punishable by a fine of \$150.00. The provisions of Chapter 11 of Title 17 and any other  
 77 provision of law to the contrary notwithstanding, the costs of such prosecution shall not  
 78 be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be  
 79 assessed against a person for conviction thereof. The court imposing such fine shall  
 80 forward a record of the disposition of the case of unlawfully operating a motor vehicle  
 81 while using a wireless telecommunications device to the Department of Driver Services.

82 (2) If the operator of the moving motor vehicle is involved in an accident at the time of  
 83 a violation of this Code section, then the fine shall be equal to double the amount of the  
 84 fine imposed in paragraph (1) of this subsection. The law enforcement officer  
 85 investigating the accident shall indicate on the written accident form whether such  
 86 operator was engaging in a wireless communication at the time of the accident.

87 (e) Each violation of this Code section shall constitute a separate offense."

88 **SECTION 4.**

89 This Act shall become effective on July 1, 2010, and shall apply to offenses committed on  
 90 or after such date.

91 **SECTION 5.**

92 All laws and parts of laws in conflict with this Act are repealed.